The Philosophical Society of Texas

PROCEEDINGS

1945

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OF THE ANNUAL MEETING

DALLAS

DECEMBER 1, 1945

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The Philosophical Society of Texas
1946

The Philosophical Society of Texas for the Collection and Diffusion of Knowledge was founded December 5, 1837, in the Capitol of the Republic of Texas at Houston, by MIRABEAU B. LAMAR, ASHBEL SMITH, THOMAS J. RUSK, WILLIAM H. WHARTON, JOSEPH ROWE, ANGUS MCNEILL, GEORGE W. BONNELL, JOSEPH BAKER, PATRICK C. JACK, W. FAIRFAX GRAY, JOHN A. WHARTON, DAVID S. KAUFMAN, JAMES COLLINSWORTH, ANSON JONES, LITTLETON FOWLER, A. C. HORTON, J. W. BUNTON, EDWARD T. BRANCH, HENRY SMITH, HUGH MCLEOD, THOMAS JEFFERSON CHAMBERS, SAM HOUSTON, R. A. IRION, DAVID G. BURNET, *and* JOHN BIRDSALL.

The Society was reconstituted on December 5, 1936. Membership is by invitation. Active and Associate Members must have been born within, or must have resided within, the boundaries of the late Republic of Texas.

Offices and Library of the Society are in the Hall of State, Dallas 1, Texas.

THE PHILOSOPHICAL SOCIETY OF TEXAS

THE Centennial of Texas Statehood and the one hundred and eighth anniversary of the founding of The Philosophical Society of Texas were commemorated at the Annual Meeting in the Texas Room of the Baker Hotel in Dallas on the evening of Saturday, December 1, 1945. President Locke presided.

Members and guests attending included: Miss Winnie Allen, Lieutenant and Mrs. Richard Bernays, Consul General Lewis Bernays, Dr. and Mrs. J. H. Black, Judge and Mrs. John H. Bickett, Jr., Mr. and Mrs. George Waverley Briggs, Mr. and Mrs. Paul Carrington, Judge and Mrs. Marion N. Chrestman, Dr. Ruby K. Daniel, Mr. G. B. Dealey, Mr. and Mrs. Herbert Gambrell, Dr. and Mrs. Samuel Wood Geiser, Mrs. Ethel Muse Gillespie, Dr. J. W. Gormley, Mr. Thomas M. Gormley, Dean and Mrs. Tinsley R. Harrison, Miss Ela Hockaday, Dr. William E. Howard, President L. H. Hubbard, Mr. and Mrs. Alfonso Johnson, Mrs. M. W. Keathley, Mr. and Mrs. Frank H. King, Mrs. A. C. Krey, Mrs. Ellen Claire Gillespie Kribs, President and Mrs. Umphrey Lee, Dr. David Lefkowitz, President and Mrs. Eugene P. Locke, Mrs. T. C. Lockett, Mr. and Mrs. Stuart McGregor, Mr. and Mrs. Ben E. Meyer, Mr. and Mrs. James M. Moroney, Mr. and Mrs. John P. Morgan, Mr. Temple Houston Morrow, Mr. and Mrs. Hobart Mossman, Mrs. Delbert G. Motley, Mr. and Mrs. J. C. Muse, Jr., Mr. and Mrs.

Rue O'Neill, Mr. and Mrs. John E. Owens, Dean and Mrs. C. S. Potts, Mr. and Mrs. Walter L. Prehn, Mr. John E. Rosser, President M. E. Sadler, Dr. and Mrs. E. H. Sellards, Mr. and Mrs. Eric G. Schroeder, Mr. Victor H. Schoffelmayer, Mr. Elmer Scott, Mrs. Alex Spence, Dr. and Mrs. I. K. Stephens, Mrs. Ed. G. Stewart, Mr. and Mrs. Leslie Waggener, Miss Leland Watkins, Judge Royal R. Watkins, Miss Virdian Watkins, Mr. William Ward Watkin, Mr. and Mrs. W. T. White.

After dinner, President Locke opened the meeting with the following remarks:

Ladies and Gentlemen of the Philosophical Society of Texas:

On the last occasion when we were together it was suggested that this meeting should signalize the fact that the present year is the one hundredth year since Texas was admitted to the American Union as a State.

Shortly afterward the Board of Directors, in pursuance of the suggestion, selected as the subject of the paper for tonight the origin of certain legislative measures that were conceived and adopted by the Founders of the Republic, and that since have had so important an influence in the development of our present Texas civilization.

These measures were enacted in 1839 and 1840.

They were adopted during the administration of Mirabeau B. Lamar, the second President of the Republic, and the Founder in 1837 of our Society.

Participants in their enactment were David G. Burnet, another of the charter members of our Society, who presided over the Senate in those years, and who had been

the *ad interim* President of the Republic; William H. Wharton, also a charter member of our Society, who during the first portion of the time was Chairman of the Judiciary Committee of the Senate; and Anson Jones, another charter member of the Society, who during the remaining portion of the time was Chairman of the Judiciary Committee of the Senate and who, of course, later became the fourth President of the Republic; David S. Kaufman, another charter member of our Society, who, during the first portion of the time, served in the House Judiciary Committee, and later presided as Speaker of the House of Representatives; William H. Jack, who was active on the House Judiciary Committee and was a brother of Patrick C. Jack, another charter member of our Society who was Chairman of the House Judiciary Committee of a previous Congress; and John W. Harris, who later served as Chairman of the House Judiciary Committee, not a charter member of our Society, but junior partner in the leading law firm of Wharton, Pease and Harris, the senior member of which, John A. Wharton, was a charter member of our Society.

The subject seems particularly appropriate for presentation at a meeting of this Society, because the charter members of this Society, comprising a substantial number of the cultural group of early Texans, were particularly instrumental in the adoption of these measures as proper bases for the development of the Texas civilization which they envisioned.

These measures are three in number:

First, an adaptation to Texas conditions—meaning thereby a simplification—of the Community Property

System with respect to the ownership by husband and wife, on terms of equality, of all property, acquired during the marriage, with the exception only of that received by gift, by will or by inheritance, and the preservation to each of them separately of all property owned prior to the marriage, or afterwards acquired by gift, will or inheritance. This modification of the Community Property System and the decision to continue it in force for the State was embodied in the Act of 1840 and has remained substantially unchanged since.

The second had for its object the encouragement of home establishment, and the protection of the home; the exemption of it from seizure by creditors. This was the first statute in any jurisdiction thus protecting the family home. Since, it has been copied in many jurisdictions.

The third was the creation of a public educational system looking to the education of all the people, and capped by a university of the first class.

It was upon this trinity of legislative foundations that these young men who came to Texas from other States, and from circles of education and culture and some even of wealth, in such States, conceived that the Texas civilization of the future should be erected.

They were young men, the counterparts for Texas of Hamilton, Jefferson, Madison and Monroe for the Federal Government.

Nor were they mean inferiors; indeed, in lofty character, in ideals, in education, in background and in vision, they were comparable with Hamilton, Jefferson, Madison and Monroe.

We who have lived in Texas know how great the influence of these measures has been on the development of the character, the independence, the individualism, and the culture of the Texas people, and on the growth of Texas business and population.

We also know to what extent successive generations of the youth of the State have been taught in the schools of these features of Texas law, and to what extent a reverence for them has developed among Texas people, Texas public men and Texas lawyers of each generation that has succeeded in the intervening years.

The Board of Directors invited Judge John H. Bickett, Jr., to prepare the paper for this meeting.

This invitation was extended shortly after the last annual dinner, but, as an aid to him, the Society undertook an extensive search for materials in all depositories where it was known or thought anything might be found. These included libraries in Washington, the State Archives at Austin, the University of Texas Library, the Dallas Historical Society Library, Southern Methodist University Library and various public and private libraries in the State.

It is believed that the paper has been prepared in the light of all information obtainable from all extant material on the subject.

But a slight departure will be made in the procedure that has been followed at former dinners. A paper on such a subject necessarily must contain much detail that would be uninteresting to present at this dinner, and that

for lack of time actually could not be presented here. Hence, the paper will be published in full in the *Proceedings* of the Society, where every member may have the benefit of it for study; and Judge Bickett, instead of reading a paper at this dinner, will deliver an address —he warns me it should be described rather as a talk— on the subject of the paper, in which some of the more important points may be mentioned.

The Board of Directors invited Judge Bickett to prepare this paper because it seemed particularly appropriate that he should do so. He is a native of the State. He was born and reared in a section close to the early beginnings of Texas. He was educated in the University of Texas. He began the practice of the law, and he served as Chief Justice of the Court of Civil Appeals, in a section in which many of the problems and many of the litigations that came before him involved a familiarity with the early history of Texas. It was known that Judge Bickett, if he accepted the invitation, would not be content with any investigation that was not thorough.

There is a real dearth of literature in Texas on this subject. It was known that his paper would constitute an important contribution for all time to that literature.

I have read the paper and I urge every member to obtain for himself the pleasure and profit of reading it, so soon as the *Proceedings* of this meeting are published and made available.

I now present Judge John H. Bickett, Jr., President of the State Bar of Texas.

ORIGIN OF SOME DISTINCTIVE FEATURES OF TEXAN CIVILIZATION

JOHN H. BICKETT, JR.

THE history of the jurisprudence of Texas shows this to have been the field where diverse cultures met and united to form a fundamental body of law, thus constituting in some respects one of the most unique and important developments in modern history. Contributions came from the Hebrews, Phoenicians, Greeks, Romans, Iberians, Celts, Arabs, and Teutons. And, withal, there came new ideas from a fresh struggle against tyranny and despotism. With the recognition of "the ancient land marks," with the success of revolution, with a zeal for freedom, and with an inspiration for a better way of life, a new polity sprang up in the northern wilderness of the former Province of New Spain, the recent State of Coahuila and Texas. Illustrating the wisdom and the beneficence of the new order were the provisions for the community system of marital property, the homestead exemption, and the public free school system.

The history of a people is best told by the annals of its jurisprudence. The law is the epitome of the wisdom and the conscience of a people. It portrays the state of advancement in knowledge and ethics. It represents that which men most devoutly believe in and desire for themselves, as well as for others. It is the summation of the spirit of man. Into it go all of failure and accomplishment, sacrifice and joy, despair and hope, known to man. It becomes the law, because in the practical and philosophical view it is the best known way of life. The sanc-

tions that maintain the law are the mandates of the enlightened mind and the quickened spirit. The law, therefore, is the stark reality of life, with features of crude harshness or of transcendent beauty, according to a people's philosophy.

The historical study of our Texas jurisprudence awaits the philosopher who can gather all of the factors, physical, economic, sociological, and philosophical, in the making of this modern mind, and then assay the whole to determine the true values. Only through the philosopher's insight can we gauge the extent to which "the perfection of human reason" has been or may be attained.

The great philosophical historian of English law, Maitland, has correctly said: "All history is but a seamless web; and he who endeavors to tell but a piece of it must feel that his first sentence tears the fabric". At the risk of the commission of an apparent act of violence, the immediate purpose is to present a segment of the tapestry that depicts the most enlightened concept of the dignity, the honor, and the right of woman.

The theory of community property as between husband and wife, recognizing her joint and equal right of ownership in all of the property gained during the marriage, (except that acquired by gift, devise, or descent), while not indigenous to Texas, nevertheless, has been carefully and constantly nurtured since the first Spaniard set foot upon this soil. It is as jealously guarded by the firm conviction of our people as it was cherished by the Visigoths as one of the finest fruits of their customs and folk-laws.

These West Goths, as they swept out of the central region of the Vistula and across Europe, touched the civilizations of Greece and of Rome, but preserved the integrity of many of their customs with the force and effect of law. At times the enemy or the ally or the supplier of mercenaries of Rome, they received in the year 412, A.D., from the Emperor Honorius, seeking to end their unwelcome proximity, the gift of southern Gaul and the Iberian peninsula for a permanent habitat for their tribes. They soon overran the entire territory, and enforced their rule from Carcasonne, Narbonne, or Toulouse.

The usages and customs of the Visigoths were destined soon to be cast into form in the earliest written barbarian code. The application of the folk-laws of the newly arrived masters resulted in confusion in the face of the better organized Roman system of law prevailing among the majority of the population. The king, Euric (467-485), with the aid of learned scholars, promulgated his Visigothic Code, known as the *Codex Eurici* or *Codex Tolosa,* fragments of which are preserved in a palimpsest in the Bibliotheque Nationale in Paris. It was first carried into effect in Tolosa (Tolouse) in 480 and soon extended over the entire Visigothic kingdom. Its provisions were controlling in all cases among Goths and between them and Hispano-Romans. But, yielding to a principle of Gothic jural politics, the previous local law of the Romans was permitted to remain amongst the native population. That first code, therefore, established a system of racial or personal law, as distinguished from universal or territorial law.

Although limited in application, it represented the accepted social principles and expressed the underlying philosophy of that state of society. Isidore of Seville, a youth in the reign of Euric, shows in his history of the Visigoths that their customary laws, called "Belagines", bore marks of the teachings of Decineus, a learned teacher of the first century before Christ, and of Ulfilas, a disciple of the Arian theology of Christianity. The Code of Euric is a monument to the chief compiler, the learned Gallo-Roman jurist, Leon of Narbonne. And the contributions of others lost to oblivion are, also, evident.

In the times of Recarred and Leovigild, amendments were added to the code and its scope became more than that of personal law. Finally, in 654, Recceswinth promulgated the Visigothic Code, known as the *Liber Iudiciorum*. It was subsequently called the *Forum Iudicum* or, in the Castillian version of 693, the *Fuero Juzgo,* by which last name it is generally known. The philosophy of Isidore and others of the School of Seville exerted great influence in this development of law. Some of the titles of the code contained admirable expressions of the philosophy of law and government. It became one of the great codes in the history of the world, destined to influence the conduct of governments and the lives of men in remote parts of the world and through centuries yet unnumbered. It became the paramount territorial law for all the people, Iberians, Celts, Romans, and Goths, within the kingdom.

That code withstood seven centuries of Moorish domination. It remained the law of the world of Spanish influence through the middle ages and, in large part, to the present time. It is the foundation and, indeed, the

very substance of the law of Texas in the field of domestic relations and of marital property.

Although the Visigoths were barbarians, they were not savages. These highly gifted people had gathered in the course of their migrations some of the superior elements of the cultures that they had touched. And, when they settled down as the rulers of Spain and a large part of Gaul, they displayed through their legal institutions the capacity to preserve in full vigor the basis of their customary law and to absorb the wisdom of the remnants of the ancient Iberians, the Celts, the Phoenician and Greek colonists, and the Romans. Gibbon, although disliking the style and criticising so-called "survivals of superstition", regards the great work as a civil jurisprudence representative of a comparatively advanced and enlightened state of society. Guizot pays this tribute to it:

> It is neither a collection of ancient customs, nor a first attempt at civil reform; it is a universal code, a political, civil, and criminal code, a code systematically arranged, and framed for the purpose of providing for all the wants of society. . . . The Forum Iudicum, in short, has, at the same time, a legislative, philosophical, and religious character; it partakes of law, science, and a sermon.

The statement of the principle of joint and equal ownership by husband and wife of property gained during the marriage is carried forward from the *Fuero Juzgo* and refined, but without subtraction, in the subsequent, outstanding codes of Spain, namely, the *Fuero Real* of 1255, *Las Siete Partidas* of 1263, *Leyes del Estilo* of 1310, *Leyes de Toro* of 1505, *Nueva Recopilacion* of 1567, and *Novisima Recopilacion* of 1805. The *Novisima*

Recopilacion, being the latest revision and constituting the law of Mexico, both before and after its independence, is of primary importance in the understanding and appreciation of the community property system of Texas, for it was and is the law of Texas. The basic law of community property was in no respect altered upon the establishment of the provisional government of Mexico, nor upon the adoption of the Mexican Constitution of 1824, nor by any subsequent amendment of that constitution, nor by any act of the Congress of Mexico, nor by any act of the Congress of the State of Coahuila and Texas. Under that system, the *empresario* Stephen F. Austin obtained and performed his colonization contracts, as did all the other *empresarios.* All colonists and other immigrants and native Mexican citizens in Texas prior to March 2, 1836, were subject to the community property law, and the rights of husband and wife, their heirs and assigns, were governed accordingly.

Before proceeding to the historical continuation of the law of community property under the Republic of Texas, the statement of the principles may be observed from the *Novisima Recopilacion.* The sections are translated from Book 10, Title 4, under the caption "De los Bienes Ganaciales o Adquiridos en el Matrimonio" (Concerning the Property Gained or Acquired in the Marriage), as follows:

LAW 1.

Mode of dividing between husband and wife the property acquired during marriage.

Everything the husband and wife may earn or purchase during union, let them both have it by halves; and if it is a gift of the King or other person, and given to both, let hus-

band and wife have it; and if given to one, let that one alone have it to whom it may have been given. (Originally Law 1, Title 3, Book 3 of the *Fuero Real,* promulgated in 1255, and continued into the *Nueva Recopilacion* in 1567, as Law 2, Title 9, Book 5.)

LAW 2.

Property common to husband and wife, and that belonging to each one for himself.

If the husband should gain anything by inheritance from father or mother, or other near relative, or by gift from lord, relation or friend, or in the army of the King, or of another in his *(i. e.* the King's) pay, let him have everything he may gain for himself; and if he be in the army without pay, at the expense of himself and his wife, whatever he may earn, in this way, be it all the husband's and wife's; for even as the cost is common to both, let what they may earn in that way be common to both. What above is said of the earnings of husbands, let the same be as regards those of wives. (Originally Law 2, Title 3, Book 3, of the *Fuero Real,* in 1255, and continued in the *Nueva Recopilacion* of 1567 as Law 3, Title 9, Book 5.)

LAW 3.

Let the fruits of the separate property of the husband or of the wife be common.

Although the husband may have more than the wife, or the wife more than the husband, in realty or in personalty, let the fruits be common to both; and let the realty or other things whence the fruits proceed go to the husband, or wife who owned them before, or the heirs of him or her." (Originally Law 3, Title 3, Book 3, of the *Fuero Real,* in 1255, and continued in the *Nueva Recopilacion* of 1567 as Law 4, Title 9, Book 5.

LAW 4.

Let the property which husband and wife have be presumed common, its respective ownership not being proved.

> Albeit that the written law may say, that all things which husband and wife have are all presumed to belong to the husband, until the wife shows that they belong to her; nevertheless, the custom observed is on the contrary, that the property which husband and wife have belong to both by halves, except that which each one may prove to be his separately; and so we order that it be observed as a law. (Promulgated with the *Leyes del Estilo* as Law 203, under Philip II in 1566, and became Law 1, Title 9, Book 5 of the *Nueva Recopilacion* of 1567.)

The legal system of Mexico remained in *statu quo* to the time of the organized Texas Revolution, as is shown by the authorities.

The preservation of the law as to the community property of husband and wife did not depend upon the continuation of a particular sovereignty. The private rights of individuals under the law of the previous sovereignty remain unchanged and unaffected, unless they are abrogated or altered by positive law under the new sovereignty. This salutary rule of international law is stated in the opinion of the Supreme Court of the United States, by Chief Justice John Marshall, in 1833, in the case of *United States vs. Juan Percheman.* In that case, the Supreme Court had under consideration questions affecting titles to lands acquired under the laws of Spain prior to the treaty of 1819 between the United States and Spain. The Court said, 7 Peters 151:

> It may not be unworthy of remark, that it is very unusual, even in cases of conquest, for the conqueror to do more than to displace the sovereign and assume dominion over the country. The modern usage of nations, which has become law, would be violated; that sense of justice and of right which is acknowledged and felt by the whole civilized world would be outraged, if private property should be generally confis-

> cated, and private rights annulled. The people change their allegiance; their relation to their ancient sovereign is dissolved; but their relations to each other, and their rights of property, remain undisturbed. If this be the modern rule, even in cases of conquest, who can doubt its application to the case of an amicable cession of territory. Had Florida changed its sovereign by an act containing no stipulation respecting the property of individuals, the right of property in all those who became subjects or citizens of the new government would have been unaffected by the change; it would have remained the same as under the ancient sovereign.

Joseph M. White, in his *New Recopilacion* (1839), prepared at the instance of the Attorney General of the United States, brought together the law of Spain and Mexico with some of the Spanish commentaries thereon, for the purpose of providing a compendium of the law of those portions of territory that had come from those two nations under the sovereignty of the United States of America and of the Republic of Texas. Speaking of these laws in the introduction, he said:

> These general principles bearing upon all the relations of civil intercourse are the sources of authority, and individual right in the provinces. They constitute the present law of Texas, in regard to sales, descents, inheritance, executorship, curatorship, proofs, marriage rights, and indeed, all the multiplied ramifications of society. By the principles of International Law, neither cession by treaty, nor revolution by force, affect the laws of *meum* and *tuum*. Political and military revolutions change jurisdiction and sovereignty, whilst the relations of individuals to each other remain the same.
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> The laws of Spain, therefore, modified by the laws of Mexico and Texas, so far as the Convention and Congress of the latter have acted by positive constitutional or legislative enactments, are the present laws of that young and rapidly increasing Republic. . . .

> The Compiler admits, that he would not probably have been stimulated to the publication of a new compilation, but for the imperious necessity existing in that country for such a work. Taking a lively interest in the destinies of a young Republic, which seemed to promise so great an extension of human happiness, by the establishment of an empire upon the fairest portion of the North American continent, he deemed it an indispensable obligation to contribute his humble efforts to free it, in its infancy, from those evils and errors which a total ignorance of the laws, and the language in which they were written, would inevitably have entailed. No one is more sensible than himself, of the disadvantages, and prejudicial influences, in any country, of the uncertain and defective assurance of titles to property.
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> Of all the events of modern times, the revolution of Texas and its rapid progress to national greatness is perhaps the most extraordinary. . . . The present republic of Texas, from the Sabine to the Rio del Norte, covers a country equal to that of all France, and in its geographical position, as well as climate, resembles, in all respects, upper Italy. It has been established as an independent government, by the valor of the Anglo-Saxon race. With a homogeneous population, and consolidated government, without any of those disturbing elements which occasionally threaten the North American Union, with the adjustment of titles, and assurances of property, which it is hoped this work will in some measure contribute to establish, it is destined to be the most perfect in political institutions, beneficent in climate, and rich in agricultural products, upon this side of the Atlantic. To the work of Aso and Manuel, every chapter of which constitutes the *Corpus Juris Civilis* of Texas, there have been added various chapters from Febrero, Curia Philipica, and the Novissima Recopilacion in extenso.

White, in the first section of the *New Recopilacion*, inserts the English translation by Judge Johnson of Trinidad of the *Institutes* of Aso and Manuel, in order to show the then present state of the law. Those learned

commentators in Book I, Title 7, state the basic law of community ganancial property in the first three paragraphs of Chapter 5, as follows:

> The right of ganancias is founded on the partnership or society which is supposed to exist between the husband and wife, because she bringing her fortune *(capitales)* in dote, gift, and paraphernalia, and he his in the estates and property which he possesses, it is directed that the gains *(ganancias)* which result from the joint employment of this mass of property or capital, be equally divided between both partners. Hence we might have found a reason for treating of ganancias between husband and wife, when we should treat of the contract of partnership; because, in this sense, Ayora and others explain it; but it has appeared more proper to us to treat this matter in this place, both because it must derive much light from what we have just said respecting dote, arras, etc.; and also because it will contribute to form a perfect idea of marriage, which, as we have allowed, we only consider here in its light of a contract.
>
> 1. Ganancial property *(bienes de ganancias)* is all that which is increased or multiplied during marriage, L. 10, tit. 9, lib. 5, *Rec.* (L 10, tit. 4. lib. 10, *Nov. Rec.*). By multiplied, is understood all that is increased by onerous cause or title, and not that which is acquired by a lucrative one, as inheritance, donation, etc. L. 12, tit. 3 (57) lib. 3, *Fuero Real.* And property is supposed to be common, except that which each shall prove to be their own separate property, L. 1, tit. 9. lib. 5, *Rec.* (L 4, tit. 4 lib. 10, *Nov. Rec.*)
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> 2. From all which it is inferred, 1st, that what the husband or wife bring into marriage as their own peculiar property, or acquire during it by lucrative cause or title, does not come into partition. 2nd, But that the property acquired during marriage by purchase, sale, or other onerous cause or title, does. 3rd, That immediately upon a division being made of this ganancial property, each acquires an absolute dominion as to their respective moieties or proportions. 4th, That as the

> gains *(ganancias)* are common, so also are the injuries or damage which shall happen to them, unless they arise by the fault of only one of the partners.

One of the most interesting features of the revolt of the people of Texas against the misrule of the Mexican government was their consciousness of the importance of the system of law under which they lived.

At San Felipe de Austin on November 7, 1835, the Consultation, predicating its action on Santa Anna's usurpation, issued its Declaration of the People of Texas in General Convention Assembled. It declared among other things:

> 1st. That they have taken up arms in defense of their rights and liberties, which were threatened by the encroachments of military despots, and in defense of the republican principles of the Federal Constitution of Mexico, of eighteen and twenty-four. . . .
>
> 5th. That they hold it to be their right during the disorganization of the Federal system, and the reign of despotism, to withdraw from the Union, to establish an independent government, or to adopt such measures as they may deem best calculated to protect their rights and liberties, but that they will continue faithful to the Mexican government so long as that nation is governed by the Constitution and laws that were formed for the government of the political association.

The conclusion of the Consultation to retain the existing legal system was deliberately reached. On the day preceding the adoption of the Declaration, during the debate upon the committee's tentative draft, one of the delegates, R. R. Royal, asked and obtained leave to read to the convention from Vattel, the great Swiss philosopher and father of modern international law. The *Law of Nations,* by Vattel, is shown to have been cited in

the brief of counsel to the Supreme Court in the *Perchéman Case* and to have been followed in the decision of the Court. Subsequently, on the same day, at the suggestion of another delegate, Sam Houston, the question was put to a vote in the form, "All in favor of a provisional government upon the principles of the Constitution of 1824 will say 'aye'." The ayes prevailed, thirty-three to fourteen.

On November 7, 1835, the Consultation adopted a resolution for the appointment of a committee "To draw up and submit a plan or system of provisional government for all of Texas". The report of the committee was considered on November 9, 10, 11, 12, and 13, 1835. On the last date, on the motion of Sam Houston, the Consultation adopted An Ordinance Establishing a Provisional Government.

The Ordinance was indicative of the learning of the members of the Consultation and of their purpose to draw from all sources the most appropriate elements for a new framework of government. It provided: that the judges should have jurisdiction "over all crimes and misdemeanors recognized and known to the common law of England"; that they should have power to grant writs of habeas corpus under the common law of England; that they should have power to grant writs of sequestration, attachment, or arrest "in all cases established by the Civil Code and Code of Practice of the State of Louisiana, to be regulated by the forms thereof"; and that they should conduct the proceedings in criminal cases under the principles of, and apply penalties according to, the common law of England. The Ordinance, also, required that every officer of the provisional government take an oath

to support the Republican provisions of the Constitution of 1824 and obey the declarations and ordinances of the Consultation and of the Provisional Government.

Article 15 of the Ordinance read:

> All persons now in Texas, and performing the duties of citizens, who have not acquired their quantum of land, shall be entitled to the benefit of the laws on colonization, under which they emigrated; and all persons who may emigrate to Texas during her conflict for constitutional liberty and perform the duties of citizens, shall also receive the benefits of the law under which they emigrated.

Article 3 of the Ordinance was conclusive as to the intent to keep intact the body of the substantive law. It prescribed the powers and duties of the General Council (the legislative body of the Provisional Government), and expressly provided: "They shall pass no laws, except as in their opinion the emergency of the country requires."

One of the most important acts of the General Council was the passage of an ordinance on December 13, 1835, calling for the meeting of delegates of the people of Texas in a plenary Convention on March 1, 1836.

The Convention duly met at the town of Washington, adopted the Declaration of Independence on March 2, 1836, and approved the last provisions of the Constitution of the Republic of Texas on March 16, 1836. Thus, was created a new, independent, and sovereign nation. It became established upon the defeat of Mexico on April 21, 1836, in the sixteenth decisive battle of the world at San Jacinto, which changed the whole course of the history of the western half of the present United States. Thenceforth, as a Republic and as a State, the people of

Texas developed a jurisprudence suitable to their environment, consonant with their ideals, and commensurate with their genius.

The setting, in which the delegates of the Convention proved themselves true pioneers as well as statesmen, was in keeping with the simple and vigorous statement of great fundamental principles that they enunciated for the just government of a free people. Washington-on-the-Brazos, in the upper reach of Austin's Colony, included few more than a hundred inhabitants. There was no means of communication but by courier on horse. There was no library; and there were no books, except the few owned by local citizens or brought by the delegates. There was no printing press in the vicinity. The convention hall was an incomplete frame building, the openings for doors and windows being covered with cotton cloth for protection against near freezing weather. The delegates were seated at both sides of a central table almost the length of the room. The side spaces were for the numerous spectators. The advantage, if any, of the situation was that it required the delegates to proceed from first principles.

The military exigencies could not escape their minds, for Santa Anna's army was before the Alamo. It was destined to fall at dawn on Sunday, the sixth of March, and history was to record the fate of the immortals there: "Thermopylæ had her messenger of defeat; the Alamo had none." On the afternoon of that same Sunday, the Convention received and read the memorable letter of the third of March of Colonel William Barret Travis from the beleagured church. On the same day General Sam Houston, having been named by the Convention as

"Commander in Chief of all the Land Forces of the Texian Army", left to organize his army to meet the Mexican army. Occasional reports and many rumors interrupted the Convention. Finally, on March 17, it adjourned, and the delegates dispersed to rush to their defenseless homes or to the army.

The delegates of the Convention represented a wide variety of experience, learning, and ability. Of the fifty-nine, forty were under forty years of age. Nearly all of them came from the southern states of the United States, twelve of them from the Carolinas. There were two native Texans, an Englishman, a Canadian, a Spaniard, an Irishman, and a Scotsman. In their several capacities, they compared very favorably with the membership of other constitutional conventions in this country. Richard Ellis, president of the Convention, had been a member of the Constitutional Convention of Alabama of 1819, and had been elected to the Constitutional Convention of Arkansas in 1835, but did not serve there because of illness. Sam Houston had been a member of Congress and Governor in Tennessee. His imprint upon history makes comment upon his subsequent career superfluous. Robert Potter had served in the Legislature of North Carolina and in Congress from that state. Samuel P. Carson, said to have been, with respect to experience in legislative and constitutional bodies, "the superior of any other man in the Convention", had served in the State Senate of North Carolina and in Congress from that state four terms; he had been a member of the North Carolina Constitutional Convention of 1835. Martin Parmer had been a member of the Missouri Constitutional Convention in 1819. James Collinsworth had been United

States District Attorney in Tennessee; he was later named as Chief Justice of the Supreme Court of the Republic of Texas, but died before serving in that capacity. Thomas J. Rusk, one of the most dominant characters and intellects in the Convention, studied law under the tutelage of John C. Calhoun, practiced law in South Carolina and Georgia, and was at San Jacinto with Houston in the capacity of Secretary of War of the Republic; he served as Chief Justice of the Supreme Court of the Republic, and after annexation became United States Senator. The outstanding ability of George C. Childress is indicated by the fact that he was the chairman of the committee to draft the Declaration of Independence and is considered as the author of it. Lorenzo de Zavala, born in Yucatan and educated in Europe, was a deputy in the first Mexican Congress, President of the Mexican Constitutional Convention of 1824, a member of the Senate of the Republic of Mexico, Governor of the State of Mexico, Secretary of the Treasury, and Minister from Mexico to France. One of the most learned and accomplished men in the Convention, his knowledge of governments, his strong opposition to the Mexican rule, and his ability to speak English made him a very influential man at the Convention, as is shown by the unanimous election of him by the Convention as the Vice-President of the *ad interim* government set up to become effective on the Convention's adjournment. Aside from the qualities of individuals, it should be borne in mind that ten of the delegates in the Convention had been members of the Consultation at San Felipe de Austin, and that four of these ten had been members of the General Council, which was set up by the Consultation and which functioned as a part of the Provisional Government provided

by the Ordinance Establishing a Provisional Government. Only in the light of these facts can be understood the accomplishment of the Convention in writing one of the great constitutions in the history of governments.

The Declaration of Independence of March 2, 1836, denounced the acts of despotism, set forth the complaints of tyranny, declared the right of the people to a free government, demanded the guaranty of their rights and liberties under law, and announced that, "The people of Texas do now constitute a free, sovereign, and independent Republic and are fully invested with all the rights and attributes which properly belong to independent nations."

On the same day, the Convention adopted the motion of Robert Potter, "That a committee be appointed consisting of one member from each municipality represented in the convention for the purpose of drafting a constitution for Texas, and that the same be reported as soon as practicable to the Convention."

The President of the Convention, thereupon, appointed on the committee to draft the constitution the following delegates: Parmer, (Chairman), Potter, Stewart, Waller, Grimes, Coleman, Fisher, Bunton, Gaines, Zavala, Everitt, Hardeman, Stapp, Crawford, West, Power, Navarro, McKinney, Menefee, Mottley, and Menard. On the next day, there were added to the committee Houston, Hamilton, Collinsworth, and Thomas. After the first draft had been reported on March 9 and was debated by the Convention, the document, as reported and amended, was referred on March 14 to a select committee of five, with directions, "to correct errors and phraseology relating to the present provisions with leave

to submit reflections by report". This last committee consisted of Rusk, Gazley, Hamilton, Gaines, and Everitt. The *Journal* shows that most of the debate on the provisions of the Constitution occurred in a preliminary way before the first draft was submitted or while the Convention sat as a committee of the whole, as a result of which no record was preserved of most of the discussions. The *Journal* does, however, contain brief minutes of motions, amendments, and discussions occurring on the floor of the Convention. There are revealed many questions concerning lands and titles thereto. The provisions were debated and approved separately. The last section, (referred to as the "twelfth section" of the General Provisions, although there were only eleven), was approved, according to the *Journal,* shortly after three o'clock of the afternoon of March 16. The *Journal* contains no record of the final adoption of the entire Constitution thus framed. But the implication is clear, five hundred copies of the Constitution having been ordered printed, that it was adopted in its entirety late that day. Gray's diary states that it was adopted at twelve o'clock that night.

The following sections of the Constitution of the Republic of Texas, showing the intention to preserve the existing system of law, are particularly noteworthy:

ARTICLE IV, SECTION 13

> The congress shall, as early as practicable, introduce, by statute, the common law of England, with such modifications as our circumstances, in their judgment, may require; and in all criminal cases, the common law shall be the rule of decision.

SCHEDULE, SECTION 1

That no inconvenience may arise from the adoption of this constitution, it is declared by this convention that all laws now in force in Texas, and not inconsistent with this constitution, shall remain in full force until declared void, repealed, altered, or expire by their own limitation.

GENERAL PROVISIONS, SECTION 7

So soon as convenience will permit, there shall be a penal code formed on principles of reformation, and not of vindictive justice; and the civil and criminal laws shall be revised, digested, and arranged under different heads; and all laws relating to land titles shall be translated, revised and promulgated.

GENERAL PROVISIONS, SECTION 10

All citizens now living in Texas, who have not received their portion of land, in like manner as colonists, shall be entitled to their land in the following proportion and manner: Every head of a family shall be entitled to one league and labor of land; and every single man of the age of seventeen and upwards, shall be entitled to the third part of one league of land. All citizens who may have previously to the adoption of this constitution, received their league of land as heads of families, and their quarter of a league of land as single persons, shall receive such additional quantity as will make the quantity of land received by them equal to one league and labor, and one third of a league, unless by bargain, sale, or exchange, they have transferred or may henceforth transfer their right to said land, or a portion thereof, to some other citizen of the republic: and in such case, the person to whom such right shall have been transferred shall be entitled to the same, as fully and amply as the person making the transfer might or could have been. No alien shall hold land in Texas, except by titles emanating directly from the government of this republic.

The members of the Convention, although predominantly Americans of Anglo-Saxon blood, did not leave

the country without a system of law nor deprive the people of their rights under the prior system of law. They voiced the necessity of continuing the old system, (except where it might be in conflict with a provision of the Constitution), to abide the action of the Congress. Article IV, Section 16, of the Constitution provided that the English common law should be introduced by statute of the Congress as early as practicable. It is significant that the idea of ultimately adopting the common law of England was qualified as to time and as to extent. It was to be introduced when practicable and with modifications appropriate to the conditions of the people of Texas. The first section of the Schedule more emphatically guards against the possibility of a rude change in the general system of law by expressly stating the underlying intent of the Convention that all of the laws then in force in Texas, and not inconsistent with the Constitution, should remain in full force until declared void, repealed, altered, or become expired by their own limitation. Again, Section 7 of the General Provisions looked to the ultimate adoption of a penal code, stipulated that the civil and criminal laws should be revised, digested, and arranged under different heads, and, further required that all laws relating to land titles should be translated, revised, and promulgated. The only laws that could have been referred to in this last provision were the laws which existed and defined the rights of the people under the Mexican system. Mere translation was not expected to be sufficient; the laws so to be translated were to be revised. Thus, translated and revised, they were to be promulgated, clearly demonstrating the purpose to give continued and renewed effect to the old laws in so far as they related to land titles. Section 10

of the General Provisions provided for those living in Texas, who had not received land in like manner as the colonists, the right to obtain land as under the old law. This right was extended to the transferee of the original possessor of the right. Furthermore, the condemnation and invalidation of specific grants, as being contrary to certain laws passed by the General Congress of Mexico, shows by the particularization that the Mexican law as the source of property rights was in all other instances respected and maintained for the time being. Therefore, the internal evidences of the Constitution conclusively establish the intent to preserve the old system of laws as to property rights, until changes should be duly enacted under the new Constitution.

Questions as to the authorship of these wise provisions remain unanswered to the present time, in spite of the extensive research made for the purpose of this address in the Library of Congress, the Texas State Library, the Library of The University of Texas, and other likely sources. Although it is hoped that further effort will be rewarded, resort can now be had only to speculation. The principle of the preservation of the law of the former sovereignty until a change is made by the new law of the succeeding sovereignty is so clearly displayed by the Constitution that it is certain that some of the members of the Convention were thoroughly familiar with the doctrine. It will be remembered that, during sessions of the Consultation, Royall, in the course of the debate upon the tentative draft of the Declaration of the body on November 6, 1835, read to the delegates from Vattel's *Law of Nations,* which, as above shown, was one of the authorities supporting the decision in the

Percheman Case. Of the twelve members of the committee who had framed that Declaration in the Consultation, four were members of the Constitutional Convention. They must have been impressed with the argument and with the authority of Vattel. And they must have carried their impressions into the Constitutional Convention, which adopted the same principle that the Consultation expressed, of preserving the old system of law, until changes might be made in an orderly manner by the new government. Moreover, it is inconceivable that the decision in the *Percheman Case* was not well known to several members of the Convention. The *Percheman Case* presented a conflict of issues, national and international, arising from the acquisition by the United States of the Florida Territory. The Carolinians in the Convention could hardly have been ignorant of that case. Rusk, through his intimate acquaintance with Calhoun, with his residence in South Carolina and later in Georgia, with his diligent labors at the bar, and with his capacity for statesmanship, could not have been without knowledge of that decision, rendered more than two years before he started to Texas. Almost the same may be said of Ellis, Carson, Potter, and others. The author or authors of the reiteration of the rule of the *Percheman Case* may remain unknown, but his or their work speaks for itself.

The Congress of the Republic moved slowly in the enactment of legislation involving changes in the earlier system of law. On December 18, 1837, the Congress passed and submitted to the President for approval "a joint resolution for appointing two legal gentlemen to compile a judicial code of laws for the Republic of

Texas". David S. Kaufman and William H. Jack were, accordingly, appointed for the undertaking. On November 6, 1838, President Houston's message to the Congress reported the difficulty of obtaining a competent translator of the laws of Coahuila and Texas, and announced the translation by Dr. John P. Kimball and the publication of both Spanish and English texts during that month. On December 20, 1838, the President's message to Congress called attention to the urgent need for the compilation of a code of laws, praised the common law system of England and the United States, suggested the propriety of adopting "a few of the general statutes of some state of established general reputation and domestic institutions similar to our own". He further, recommended that "a committee of professional gentlemen be appointed to arrange a system by compilation or digest of statutes, adapted to our wants, to be submitted to the consideration of the next national Congress".

On January 1, 1839, Kaufman and Jack made a report to Congress, stating that they had been unable to proceed to compile a code of laws, because of the absence of a proper translation of the Mexican laws, and because of the failure of Congress to state the policy of the Republic as to the extent to which a new code should be founded on the principles of the civil law or of the common law, and because of the lack of indication by Congress as to whether it considered it practicable or politic "to introduce at present the common law of England". They declared their willingness, with the forthcoming translation of the laws of Coahuila and Texas and with the instruction of the Congress as to what

system of law should be the foundation of the Texas code, to go forward in the discharge of their duties. The judiciary committee, to which the report of Kaufman and Jack was referred, recommended passage of a resolution, again appointing "two legal gentlemen, learned in the law, to prepare a complete code of laws". Such a resolution was passed on January 23, 1839. It was not until November 23, 1839, however, that a bill was introduced in the lower house of the Congress to comply with the suggestion of Kaufman and Jack as to the determination of the system, whether the common law of England or the law of Spain and Mexico, as a basis for the future law of Texas. After deliberation in both houses, the Fourth Congress settled the general issue.

On January 20, 1840, the Congress of the Republic passed, and President Lamar approved, "An Act to adopt the common law of England, to repeal certain Mexican laws, and to regulate the marital rights of parties".

Section 1 provided, "That the common law of England (so far as it is not inconsistent with the Constitution or the Acts of Congress now in force) shall, together with such Acts, be the rule of decision in this Republic, and shall continue in full force until altered or repealed by Congress".

Section 3 defined the separate property of the wife, including property owned by her before marriage or acquired afterwards by gift, devise, or descent.

Section 4 defined community property of husband and wife as follows:

> That all property which the husband or wife may bring into the marriage except land and slaves and the wife's para-

> phernalia and all the property acquired during the marriage, except such land or slaves, or their increase, as may be acquired by either party, by gift, devise, or descent, and except also the wife's paraphernalia, acquired as aforesaid, and during the time aforesaid, shall be the common property of the husband and wife, and during the coverture may be sold or otherwise disposed of by the husband only; it shall be first liable for all the debts contracted by the husband during the marriage, and for debts contracted by the wife for necessaries during the same time; and upon the dissolution of the marriage, by death, after payment of all such debts, the remainder of such common property shall go to the survivor; if the deceased have no descendant or descendants; but, if the deceased have a descendant or descendants, the survivor shall have one half of such common property, and the other half shall pass to the descendant or descendants of the deceased.

It is evident, from including in the same Act the adoption of the common law and the continuation of the community property system, that the Congress intended to maintain the principles of the community property system, despite the adoption of the common law, and to negative conclusively any notion of regulating the property rights of husband and wife according to the common law. Hence, in over a hundred years of legislative enactments and judicial decisions, the community property system in Texas has retained its integrity free of any theory of the common law.

The first case coming before the Supreme Court of the Republic involving a question of community property between husband and wife was *Scott vs. Maynard* (Dallam, 548.) The opinion by Chief Justice Hemphill cited with approval White's *New Recopilacion* for a definition for community property, and accepted the statements above

quoted from that work as being correct statements of the law existing in the Republic in 1839.

The case of *McMullen vs. Hodge* (5 Texas Reports, 34) involving the title to the San Jose Mission lands, is a conclusive decision on the survival of the former system, subject only to later constitutional or statutory change.

The annexation of the Republic of Texas to the United States of America, consummated by joint resolution passed by both houses of the Congress of the United States and approved by the President of the United States, bound the government of the United States of America to the recognition of (among other constitutional establishments of Texas), the community property system of Texas and the vested property rights thereunder.

The Congress of the United States passed on February 28, 1845, and the President approved on March 1, 1845, a resolution providing for the annexation of Texas according to the terms and conditions specified in the resolution. The resolution provided, in part:

> Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress doth consent that the territory properly included within, and rightfully belonging to the Republic of Texas, may be erected into a new State, to be called the State of Texas, with a republican form of Government, to be adopted by the people of said Republic, by deputies in Convention assembled, with the consent of the existing Government, in order that the same may be admitted as one of the States of this Union.
>
> 2. And be it further resolved, That the foregoing consent of Congress is given upon the following conditions, and with the following guarantees, to-wit:

> First. Said State to be formed, subject to the adjustment by this Government of all questions of boundary that may arise with other Governments; and the Constitution thereof, with the proper evidence of its adoption, by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action, on or before the first day of January, one thousand eight hundred and forty-six.

The Congress of the Republic of Texas, on June 23, 1845, approved the proposed annexation, and provided for a convention to draft a constitution for the State to be submitted finally to the Congress of the United States.

The Convention, of which Thomas J. Rusk was the president, met on July 4, 1845, and, on the same date, adopted an ordinance, which recited the resolution of the Congress of the United States of February 28, 1845, and which concluded:

> Now, in order to manifest the assent of the people of this Republic as required in the above recited portion of the said resolutions; we the deputies of the people of Texas in Convention assembled, in their name and by their authority, do ordain and declare, that we assent to, and accept the proposals, conditions and guarantees contained in the first and second section of the resolution of the Congress of the United States aforesaid.

The Convention completed and approved the draft of the Constitution for the State of Texas on August 27, 1845.

On October 13, 1845, the voters of Texas approved the terms of annexation and the provisions of the State Constitution. This Constitution of the State of Texas was submitted to the United States, and was approved

and accepted by joint resolution of the Congress of the United States, which was signed by President Polk on December 29, 1845. On that date, so the Supreme Court of the United States held in *Calkin vs. Cocke* (14 Howard, 227), annexation became legally effective. On February 19, 1846, President Jones concluded his last official statement with the epic words, "The final act in this great drama is now performed; the Republic of Texas is no more."

The Constitution of the State of Texas of 1845, Article VII, Section 19, provided:

> All property, both real and personal, of the wife owned or claimed by her before marriage, and that acquired afterward by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

The Constitution of 1866 contained the same provisions as that of 1845.

The Constitution of 1869, also, recognized the community property system.

The present Constitution (of 1876) contains the same provisions as that of 1845.

The present statute of Texas preserves the ancient principle and provides:

> All property acquired by either the husband or wife during marriage, except that which is the separate property of either, shall be deemed the common property of the husband and wife; and all the effects which the husband and wife possess at the time the marriage may be dissolved shall be re-

> garded as common effects or gains, unless the contrary be satisfactorily proved. During coverture the common property of the husband and wife may be disposed of by the husband only; provided, however, if the husband shall have disappeared and his whereabouts shall have been and remain unknown to the wife continuously for more than twelve months, the wife shall after such twelve-month period and until the husband returns to her and the affidavit hereinafter provided for is made and filed for record, have full control, management and disposition of the community property, and shall have the same powers with reference thereto as are conferred by law upon the husband, and her acts shall be as those of a feme sole.

Therefore, in Texas the wife has a present, vested ownership and title to one-half of the community property, which is subject to the control and disposition by the husband as a managing partner during the marriage, but which under certain circumstances defined by the statute, is subject to control and disposition by the wife. During the marriage, the husband can not dispose of the community property in fraud of the wife's interest. Upon the death of the husband, the one-half interest of the wife in the community property is hers, not by the law of inheritance, but by virtue of her ownership. So clear does the law of Texas make the matter, that the wife's legal rights in the community property can not be altered by agreement between them subsequent to marriage; and there is, even, a prohibition against ante-nuptial agreements altering the course of descent.

Texas has introduced to the American Union her juridical inheritance, the community property system. The wisdom, equity, and justice of this system are beyond debate. Its beneficence can not be questioned. It represents the noblest conclusion of mankind with respect

to the position of the wife in the economic order of society and in the institution of the home. Its benign influence has been inestimable. It is an abiding concept of the spirit that is Texas.

No less important to the progress of Texas has been and will always be the exemption from forced sale of the homestead of the family, as provided by the Constitution and the laws of Texas.

Article XVI, Section 50, of the Constitution of Texas (adopted 1876) reads:

> The homestead of a family shall be, and is hereby, protected from forced sale, for the payment of all debts except for the purchase money thereof, or a part of such purchase money, the taxes due thereon, or for work and material used in constructing improvements thereon, and in this last case only when the work and material are contracted for in writing, with the consent of the wife given in the same manner as is required in making a sale and conveyance of the homestead; nor shall the owner, if a married man, sell the homestead without the consent of the wife, given in such manner as may be prescribed by law. No mortgage, trust deed, or other lien on the homestead shall ever be valid, except for the purchase money therefor, or improvements made thereon, as hereinbefore provided, whether such mortgage, or trust deed, or other lien, shall have been created by the husband alone, or together with his wife; and all pretended sales of the homestead involving any condition of defeasance shall be void.

The present legal protection of the homestead of the family by constitutional and statutory provisions had its genesis in an earlier day. Nothing like it was ever known to the common law of England, nor had been recognized by any state of the United States, nor had received approval by any other nation. Indeed, the state of

advancement elsewhere had not generally reached the point of abolishing the debtors' prisons. Blackstone seems not even to have entertained an idea of doing away with imprisonment for debt. Some of the American states still permitted it. But, for Texas, from 1836 forward there was never to be a Newgate Calendar or a David Copperfield to reveal the horrors of debtors' prisons. More than that, the Constitution of the Republic had laid the foundation for the recognition of the homestead right. In 1838, the Congress enacted a homestead exemption statute. And, in 1839, it passed a more comprehensive homestead law. The Constitution of 1845 firmly and finally established the principle, which has never since been impaired, although the rights of married women have frequently been enlarged and further protected by legislative acts.

It was but natural that the founders of the Republic should for the first time in history work out and establish the principle of legal protection of the homestead of the family. The colonization laws of Spain and Mexico, under which many had come to Texas and acquired property, were predicated upon the importance of the family. A substantially larger amount of land was available to the colonist who was the head of a family, in comparison with that available to a single man. The outstanding importance of the family was recognized by the law at every turn, and was a matter of personal familiarity with every member of the Constitutional Convention and of the Congresses of the Republic. A great majority of them, having come from other states, had witnessed the dire distress and impoverishment of families in the great financial depression of a few years before. The

attempts of settlers to establish homes under the precarious conditions in the new Republic needed protection. Furthermore, the experiences under the Spanish and Mexican governments had caused a natural revulsion against every form of harshness and oppression. The circumstances, therefore, were propitious for the adoption of the principle of the homestead exemption.

This homestead feature of Texas law is based upon the most enlightened and important considerations of the welfare of society, as well as of justice to the individual. It affords a shield of protection to the family. It inculcates the strongest sentiments of stability, firmness, and courage. It provides ample room for the cultivation of the cardinal virtues that produce a good citizen and a safe society. It makes a reality of the legal maxim that, "A man's home is his castle". There can be no greater praise of the principle than that of Judge John F. Dillon in his lectures at Yale University sixty years ago, when he said:

> The Republic of Texas passed the first homestead act in 1836. It was the great gift of the infant Republic of Texas to the world. Such legislation while, "touched with human gentleness and love," is based upon the highest wisdom. It invests the era which originated and sustains it with a halo of true glory.

The family institution being a primary object of concern in the jurisprudence of Texas, it is important to consider briefly the development under law of the public school system.

Prior to the revolution, little had been done by the government toward the establishment of any system of education. There had been a faint gesture in the Con-

stitution of 1827 of the State of Coahuila and Texas, looking to the establishment of elementary schools and seminaries in the principal towns. The Congress of Coahuila and Texas provided a plan for free schools for those who were unable to pay tuition, and in 1830 provision was made for six primary schools. Practically nothing was accomplished, however. And the people had to resort to the few private schools that existed.

The Declaration of Independence set forth, as one of the principal grievances of the people of Texas against the government of Mexico, that:

> It has failed to establish any public system of education, although possessed of almost boundless resources, (the public domain), and although it is an axiom in political science, that unless a people are educated and enlightened it is idle to expect the continuance of civil liberty, or the capacity for self government.

The Constitution of the Republic specifically provided:

> It shall be the duty of Congress, as soon as circumstances permit, to provide by law, a general system of education.

President Lamar, in his message to Congress in 1838, presented the idea of a publicly endowed and supported free school system, and called upon the legislature to utilize a part of the public lands for a public school system and a university. Accordingly, in 1839, an Act of Congress granted to each county three leagues (13,278 acres) of "good" land to be used for the support of primary schools, and set aside fifty leagues of land as an endowment fund for the maintenance of two universities, to be located in the eastern and western parts of the state.

In 1840, Congress provided for the establishment in each county of a "central institution" for instruction in classical literature and the higher branches of mathematics.

Article 10 of the Constitution of 1845 was devoted to the subject of education. The first section provided:

> A general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, it shall be the duty of the legislature of this state, to make suitable provision for the support and maintenance of public schools.

The second section directed the legislature to establish free schools throughout the state as soon as practicable and to furnish support for them by taxation on property. It required the legislature to set aside not less than one-tenth of the total annual revenue of the state from taxation as a perpetual fund, appropriations from which were to be made annually for the support of public free schools. And it provided that no law should ever be made diverting the fund to any other use.

The Constitution of 1866 carried forward in substance the provisions of its predecessors.

The Constitution of 1869, likewise, provided for the permanent fund for public education, and increased the proportion of the general revenue to be set aside for the purpose from one-tenth to one-fourth. It assessed a poll tax of one dollar for the schools. And it provided that the proceeds from the sale of the public domain should be made a part of the school fund.

The Constitution of 1876 set aside one-half of the remaining public domain for public schools. It also committed to the perpetual public school fund the funds,

lands and other property previously set aside for public schools, the alternate sections of land reserved by the state in railroad grants, and the proceeds from the sale of any portion of the public domain. In addition, this Constitution provided for one-fourth of all occupation taxes and a poll tax of one dollar to be set apart for school support.

The public domain, to which reference was made, consisted of the unsold and unappropriated public lands owned first by the Republic and later by the State. The terms of annexation provided that the State of Texas should own all of the public domain of the Republic that was undisposed of at the time of annexation. Thus, Texas occupied a different position from that of the other states of the Union, in that she remained the owner of vast, valuable, public lands. From this source, approximately fifty-two million acres of land of the public domain of Texas have been devoted to the purposes of public free education.

The result is that now the permanent school fund includes $85,000,000.00 invested in securities.

The annual appropriation by the Legislature in 1945 for the state institutions of higher learning (of which there are ten colleges besides the University of Texas and the Agricultural and Mechanical College and their branches), has reached the total of $12,818,875.00, in addition to endowment revenues and local income, for this current fiscal year. The total disbursements for the year for the public schools approximate $115,000,000.00.

Compulsory education has been in effect in Texas for almost thirty years. And, since the Act of 1917, free

text books have been provided by the state at an annual cost now of about $2,000,000.00.

The University of Texas, envisioned by President Lamar, was opened in 1883, and the Agricultural and Mechanical College in 1876, the latter from the standpoint of the Constitution being regarded as a branch of the University. The University has received two million acres of public land, constituting the basis of its perpetual endowment fund. The addition of oil and gas revenues from these lands has now brought the total of cash and securities in the fund to $54,900,000.00, exclusive of the lands which can not be sold. There is reasonable expectation that, under the prudent and wise policy of the law, the University will become the richest and most useful educational institution in the world.

But neither great endowments, nor legislative generosity, nor substantial local revenues make great schools or colleges. Aside from adequate material support, modern buildings, great libraries, and other physical assets, the most important resource of the Texas system of public schools and institutions of higher learning is the spirit of the people. By constitution, by statute, and by universal consent, the people of Texas are forever committed to the classic statement of Lamar:

> Cultivated mind is the guardian genius of Democracy, and, while guided and controlled by virtue, the noblest attribute of man. It is the only dictator that freemen acknowledge, and the only security which freemen desire.

As the philosophy of a people finds its best expression in their law, so the law, by its precepts and its sanctions, induces progress toward still higher levels. Each age, according to its environment, its compulsions, its ac-

ceptations, and its laws, finds its way to a nobler conception of the relationships of men. They are inspirited by the burdens, the rewards, and the visions that are theirs. Through the centuries the ascent has generally been slow and tortuous. But there have been epochs of great illumination and inspiration,—the Renaissance, the Reformation, the Great Enlightenment, and the Revolutionary Period. In that period, came the clash of forces that made the Texas Revolution. While, in its inception there was the conflict of cultures, there was in its result the fusion of the best of them. Only those learned in the ways of all peoples and imbued with the untrammeled spirit of pioneers could have had the ability to take the superior elements of Anglo-Saxon jurisprudence and of Spanish-Visigothic-Roman jurisprudence and plant them harmoniously in a new system. This was their monumental accomplishment. In its light, Texas takes its place in the vanguard of progress, refreshing its spirit at the springs of wisdom, justice, and mercy. And so it is that a Texan stands everywhere as a column of his own height and Texans raise the Flag of the Lone Star alongside that of the United States from Kasserine Pass to Salerno, to Saint Lo, to Iwo Jima.

Bibliography

The Annexation of Texas. Justin H. Smith. New York: Barnes & Noble, 1941.

The Background of Hispanic-American Law. John T. Vance. New York: Central Law Book Co., 1943.

The Bench and Bar of Texas. Jas. D. Lynch. St. Louis: Nixon-Jones Printing Co., 1885.

Brief (with appendices in extenso) for Defendants in Error, by Lloyd M. Robbins and others, in United States vs. Robbins, 269 U. S. 315.

Civil Law of Spain and Mexico. Gustavus Schmidt. New Orleans: Thomas Rea, 1851.

The Committee on the Texas Declaration of Independence. James K. Greer, *The Southwestern Historical Quarterly,* XXX, 239; XXXI, 130.

Community Property Laws with Translation of the Commentaries Thereon of Matienzo, Asevedo, and Guttierez. Lloyd M. Robbins. Sacramento: Supervisor of Documents of California, 1940.

Conflict of Culture in Texas, 1821-1835. Samuel H. Lowrie. New York: Columbia University Press, 1932.

Framing the Constitution of the Republic of Texas. Rupert N. Richardson. *The Southwestern Historical Quarterly,* XXXI, 192.

From Virginia to Texas, 1836, Diary of Col. Wm. F. Gray. Houston: Gray Dilloye & Co., 1909.

Gammel's Laws of Texas, Vols. I, II. Austin: The Gammel Book Co., 1898.

Germanic and Moorish Elements of the Spanish Civil Law. Peter J. Hamilton. *Harvard Law Review,* XXX, 303.

Guide to Law of Spain. Thomas W. Palmer, Jr. Washington: Government Printing Office, 1915.

History of Germanic Private Law. Rudolph Huebner. Boston: Little Brown & Co., 1918.

History of the Supreme Court of Texas. J. H. Davenport. Austin: Southern Law Book Publishers, 1917.

A Comprehensive History of Texas. Dudley G. Wooten, Dallas: W. G. Scarff, 1898.

History of Texas. H. Yoakum. New York: Redfield, 1855, Facsimile, Austin: The Steck Co., 1935.

Las Siete Partidas. Trans. by Samuel P. Scott. New York: Commerce Clearing House, Inc., 1931.

Law of Marital Rights in Texas. Ocie Speer. Rochester: The Lawyers Co-operative Publishing Co., 1929.

Laws and Decrees of the State of Coahuila and Texas. Trans. by J. P. Kimball, 1839.

Laws of Community Property Laws of Toro, 1505. Lloyd M. Robbins and Bernardine M. Murphy. Lausanne, Switzerland: Imprimerie des Arts et Metiers S. A., 1929.

The Life of Stephen F. Austin. Eugene C. Barker. Nashville: Cokesbury Press, 1925.

The Marital Community: Its Origin and Diffusion. Charles Sumner Lobinger. *American Bar Association Journal,* XIV, 211.

Marital Property. *Encyclopedia of Social Sciences,* X, 116.

The Men Who Made Texas Free. Sam Houston Dixon. Houston: Texas Historical Publishing Co., 1924.

Mirabeau Buonaparte Lamar. Herbert P. Gambrell. Dallas. Southwest Press, 1934.

New Recopilacion. Joseph M. White. Philadelphia: T. & J. W. Johnson, 1839.

Official Correspondence of The Texan Revolution. Ed. by William C. Binkley. New York: D. Appleton, Century Co., 1936.

The Old Spanish Code of Las Siete Partidas in Mexico. John T. Vance. *American Bar Association Journal,* XIV, 219.

Political Theory and Law in Medieval Spain. Marie R. Madden. New York, Fordham University Press, 1930.

Principles of Community Property. W. Q. de Funiak. Chicago: Collaghan & Co., 1943.

Readings in Texas History. Eugene C. Barker. Dallas: The Southwest Press, 1929.

Signers of the Texas Declaration of Independence. L. W. Kemp. Houston: The Anson Jones Press, 1944.

Some Phases of the Law of Community Property in Texas. W. S. Simkins. *Texas Law Review,* III, 363. (1924-25).

Texas, a Contest of Civilizations. George P. Garrison. Boston: Houghton Mifflin & Co., 1903.

Texas the Lone Star State. Rupert N. Richardson. New York: Prentice-Hall, Inc., 1943.

Translation of Biographies of Noted Spanish Commentaries. Lillian Roark. San Francisco: Privately Printed, 1939.

The Visigothic Code. Trans. by Samuel P. Scott. Boston: The Boston Book Co., 1910.

BUSINESS PERIOD

President Locke: In behalf of the members and their guests, who are in attendance tonight, I wish to express the thanks of the Society to Judge Bickett for the eloquent and absorbing synopsis that he has given us of the paper which he has prepared.

But more than that. In behalf of the entire membership of the Society and of such others as may be privileged to read his paper in full as published in the *Proceedings* of the Society, I wish to express now in advance a deep sense of indebtedness that all will then acknowledge to Judge Bickett for the significant contribution which he has made to the legal literature of Texas, and for the time and effort that he has expended at our request for the preparation of so important a document.

It is with pleasure that we announce the election of fourteen distinguished Texans to membership during the past year. Their names in alphabetical order are:

Dr. Edwin A. Elliott, Fort Worth
Dean Tinsley R. Harrison, Dallas
Judge F. L. Hawkins, Court of Criminal Appeals
Bishop Everett H. Jones, San Antonio
Governor Dan Moody, Austin
Mr. Temple Houston Morrow, Lubbock
Miss Fannie E. Ratchford, Austin
President M. E. Sadler, Texas Christian University
Dr. Albert O. Singleton, Galveston
Dr. Henry Nash Smith, Harvard University
Congressman R. Ewing Thomason, El Paso
Dr. T. Wayland Vaughan, Washington, D. C.

Mr. Leslie Waggener, Dallas
Mr. Dudley K. Woodward, Jr., Dallas

We are happy that Dean Harrison and Mrs. Harrison, President Sadler, and Mr. and Mrs. Leslie Waggener, and Mr. Temple Houston Morrow are with us this evening.

We regret to announce the deaths during the past year of five of our distinguished members:

Mrs. Maggie Wilkins Barry
Major Richard F. Burges
Miss Julia Ideson
Dr. Robert E. Vinson
Dr. Hugh H. Young

Concerning these departed associates, the following named members will constitute a committee to prepare appropriate memorials for inclusion in the *Proceedings* of the Society: Mr. L. W. Kemp, Dr. P. I. Nixon, Mrs. Hally Bryan Perry, and Dean C. S. Potts[1].

We desire to express the appreciation of the Society to the numerous members of the Society and to others, friends of the Society, who have rendered valuable assistance in the research for materials on the subject of tonight's paper.

We wish to acknowledge again our indebtedness to the Committee on Arrangements and, particularly to our distinguished members, former President George Waverley Briggs and Secretary Herbert Gambrell, for the assistance which they have rendered on this occasion as on former occasions in all arrangements for the Annual Meeting and dinner.

[1] See page 52.

The Report of the Committee on Nominations of Officers and Directors was presented by Mr. John E. Rosser and adopted.[2]

President Locke then presented Dr. Louis Herman Hubbard, President of the Society for the year 1946.

President Hubbard: My selection by the Nominating Committee as President of The Philosophical Society of Texas for the coming year is an undeserved honor, but one of which I will make every effort to be worthy. In accepting I do so not only personally but for the institution which I represent. The membership of the Society is a goodly company. In the years when it was first organized its members included the foremost pioneers of Texas—men such as Mirabeau B. Lamar, Anson Jones, and Sam Houston—who had at heart the best interests of what was then the Republic of Texas, and who were anxious that other nations, and especially the United States of America, learn of its great opportunities and vast possibilities. We, as their successors, have the same objectives in mind: to contribute to the development of our civilization, and to see that Texas plays a worthy part in this development. It is my hope that during the coming year the Society will move forward in reaching these objectives. I promise to do the best I can toward this end.

The meeting then adjourned.

[2] See page 62.

NECROLOGY

MAGGIE WILKINS HILL BARRY
1863-1945

One of the State's most original-minded educators, Maggie Wilkins Hill Barry, died at Bryan on April 30, 1945. Death, which came near sunset, typified her life. Her stout heart which motivated a fragile body failed only after her physical strength had ebbed away in the advanced evening of her life; but the brilliant mind which had found outlet in her pen and her clear, precise, resonant voice for more than the Biblican span, remained unimpaired almost to the end.

Mrs. Barry was born near Palo Alto, Miss., January 5, 1863, the daughter of Jennie Calvert and Dr. Samuel Van Dyke Hill. After attending private schools at Macon, Miss., and Tuscaloosa, Ala., she entered college at the age of fourteen. She received the Master of Arts degree from the Murphreesboro Institute in Tennessee, and studied music at Boston, New Orleans, and Paris, where she also studied French poetry and drama with Marie du Minil of the Theatre Francaise, and German and Italian with Lida von Krockow of Berlin and Dresden.

Her life was devoted to teaching. She taught modern languages at Murphreesboro, Tenn., then joined the faculty of Whitworth College, Mississippi, and came to Texas in 1888 as head of the department of English at Kidd-Key College, Sherman.

In 1891 she was married to Frederick George Barry, Member of Congress from Mississippi. One child, Jennie Hill Barry, survives.

After her marriage, Mrs. Barry lived for a time in Ardmore, Oklahoma, where there were then no schools. She took a small group of children into her home every day, teaching them, single-handed, everything from nursery rhymes to Greek and Latin. Her one-teacher school was established before child-psychology had become a vogue, but her instinct for teaching, her experience, and her common sense guided her in anticipating the most approved modern methods.. She let her pupils jump and run; she gave them rhythmical exercises to

rest and stretch their muscles and imaginations; she found thousands of ways to stimulate their minds and emotions. She early recognized the necessity of stimulating and disciplining the emotions, as well as the mind.

When she resumed teaching at Kidd-Key after her husband's death, she consciously used the fundamental laws of the fine arts as a means of teaching ethics, of developing personality and building character. In teaching the relationship of the arts to each other, to man, and to nature, she employed her technical training in music, drama, and poetry, and made a signal contribution to pedagogic lore.

In dealing with "average pupils" Mrs. Barry never made the mistake of bringing her teaching down to the level of mediocrity to put it "within reach of their intelligence;" she gave them, instead, the daily inspiration of contact with the beauties of art, believing that the "average" life has the greatest need for such inspiration. The result was not a standardization of learning but a higher standard of living throughout the Southwest.

On the other hand, the exceptional pupils who came in touch with Mrs. Barry's teaching found in it the spark to set fire to their own talents. She, like Mrs. Key, was able to give to such pupils not only sympathy and understanding, but actual guidance in the craftsmanship of their work, whether writing, painting, acting, or music.

At the request of President W. B. Bizzell, Mrs. Barry came to the A. and M. College to do special work in 1919; she remained a quarter of a century as specialist for women's organizations for the extension service. She at first supposed the rural leadership might be most readily developed by relating rural women to the existing organizations of urban women who had attained civic consciousness; but after some experimentations, she evolved the theory of education through organization that now underlies all home demonstration organizations. She emphasized the organization of local clubs in rural communities. When leadership and experience in club procedure and community activity created a desire for wider functioning, county councils were organized in 1924. In 1933 the Texas Home Demonstration Association, representing 40,000 rural women, was organized and eight years later the Association named its annual college scholarship in Mrs. Barry's honor.

Among Mrs. Barry's published expositions of her philosophy of education through organization are: *Co-operative Extension Service in Texas—Its Objectives and Relationships; The Art of Living; The Old Order Changeth Yielding Place to New;* and *The Land and Its Use.*

She was a member of the executive committee and the board of directors of the General Federation of Women's Clubs. She organized and was chairman of its Department of the American Home. In that capacity she wrote an amendment to the Capper-Ketchum Bill which provided for a more equitable proportion of agricultural and home demonstration agents, and assisted in obtaining passage of the bill by the 70th Congress.

Because of her unusual ability at briefing legislation and documents of governmental policy and because of wide experience in organization, Mrs. Barry was the adviser and confidante of many leaders in state and national affairs.

Life memberships were given Mrs. Barry in the Texas Congress of Parents and Teachers, the Texas Federation of Women's Clubs, and the Texas Library Association. She received the distinguished service award of Epsilon Sigma Phi, and the 1940 merit award of the Texas Agricultural Workers' Association for distinguished service.

Her contributions to the enrichment of life in the Southwest were unique and lasting. The Philosophical Society of Texas records Mrs. Barry's passing with sorrow.

RICHARD FENNER BURGES
1873-1945

On January 13, 1945, Richard Fenner Burges died at his home in El Paso. Born January 7, 1873, in Seguin, Major Burges lived all of his life in Texas. In 1892, after a year's study in the Agricultural and Mechanical College of Texas, he came to El Paso, where he studied law privately and was admitted to the bar in 1894. In 1898 he married Miss Ethel Petrie Shelton. Their daughter is Jane Burges Perrenot, El Paso. Mrs. Burges died in 1912.

The son of a distinguished Texas lawyer and senator, William H. Burges of Seguin, Major Burges immediately interested himself in

civic affairs. He served as City Attorney from 1905 to 1907, during which time he was a leader in a successful movement to rid the city of organized gambling. He wrote the El Paso City Charter which is still in use. Major Burges was a member of the first Board of Directors of the El Paso Public Library and remained an active member until his death.

Always a lover of nature and of the beauties of the Southwest, Major Burges was the first to publish an account of the unique wonders of the caverns at Carlsbad and to advocate their establishment as a National Park.

One who consistently turned his legal knowledge toward the progress and development of the Southwest he loved, Major Burges soon became nationally known as an expert on irrigation law. Even a partial list of his services in this field becomes a long one. He was one of a group of men in the Southwest who brought about the construction of the Elephant Butte Dam. In the controversy between Mexico and the United States over the Chamizal Zone (1910-1911) which was submitted to the International Boundary Commission for arbitration, Major Burges was one of the counsel for the United States, along with William C. Dennis, now President of Earlham College, and Judge Walter B. Grant of Boston. The Honorable Eugene Lafleur presided over the Commission, and General Anson Mills of the United States Army and Señor F. B. Puga served as associate arbiters.

In 1915 Major Burges became President of the International Irrigation Congress; in 1923, counsel for Texas and New Mexico on the division of the waters of the Pecos River; later, special counsel for Texas in the Rio Grande Compact Commission; and in 1929, the Texas member of that Commission. He was for many years general counsel for the El Paso County Water Improvement District. By Presidential appointment he was special counsel for the Department of Justice in the acquisition of lands in the Rio Grande Rectification Project.

Major Burges is the author of the Texas Irrigation Code and of the Texas Forestry Act. From 1921 to 1923 he served as President of the Texas Forestry Association. He was counsel for Texas in the case of *The State of Texas vs. The State of New Mexico* in the Supreme

Court of the United States, a case involving the division of the waters of the Rio Grande.

He considered his service in World War I one of his richest experiences. In 1917 he organized Company B of the Texas National Guard. The company, with Mr. Burges as Captain, went into action as Company A of the 141st Infantry, during an important engagement in October, 1918. All battalion officers having been killed, Captain Burges took command. He was promoted to the rank of Major and received the *Croix de Guerre* with a citation from Marshal Petain which reads in part: "A very brave officer . . . His example contributed largely to the success of the day." After his military service, he was always known as Major.

One of Major Burges' last public duties was membership on an advisory committee of distinguished lawyers, appointed by the Supreme Court of Texas, for the reformation of the State Rules of the Practice of Civil Procedure. His membership in the Philosophical Society of Texas dates from its reorganization in 1936.

A library of some five thousand volumes and containing one of the finest privately-owned collections of Texana supports his well-earned reputation as a scholar and an expert on Texas history. Many years of membership in the Texas State Historical Association, the Texas Historical and Library Commission, and the Virginia Historical Society add further testimony.

But add impressive titles as one may to outline a long life of service to state and country, for those who knew the Major best, he remains in memory a thoughtful and courageous gentleman who loved his State, his family and his friends, his library and his garden, whose outstanding quality was integrity—a man who once wrote in his *Thought Book*, "Length is life's least important dimension," and who based his actions on that belief.

JULIA BEDFORD IDESON

Julia Bedford Ideson died suddenly at New Hope, Pennsylvania, on her birthday, July 15, 1945. She was born in Hastings, Nebraska. Her parents, John Castree and Rosalie (Beasmen) Ideson, had left

Maryland to seek their fortune in the west, but early in her childhood the family moved to Houston, where she was educated in the public schools. She attended The University of Texas and was a member of the first class in library science conducted there.

In 1903 she became librarian of the Houston Lyceum and Carnegie Library, and a year later the Carnegie building was opened under her able but youthful direction. During the succeeding forty-two years she developed for Houston one of the outstanding libraries in the South.

Today a main building of Spanish Renaissance architecture, five branch libraries in their own buildings and two sub-branches, together with a well equipped bookmobile and a varying number of book stations, attest her work. From a few thousand, its book collection has grown to more than 200,000. This wide expansion was accomplished largely through Julia Ideson's force of character, her perseverance, her intelligent planning and her unswerving devotion to that one institution. The Houston Public Library as it stands today is, indeed, the lengthened shadow of Julia Ideson. Few knew how completely the library absorbed not only her daily thought, but also all of the overtones of her being. With all of her deep seriousness of purpose, with all of her earnest endeavor to give the citizens of Houston the most she could give to them of service and books, she maintained an air of light-heartedness. This combination of qualities endeared her to hundreds of friends and associates. Few people possessed a wider, more varied and more devoted circle of friends. Hers was an unusual quality of leadership.

Her interest in everything that concerned Houston went hand in hand with her work for the library. She made a continuous study of the city and its developments and lent herself to anything that was for its betterment. Because of her zeal and enthusiasm, the resources of the library became an integral part of the cultural and educational resources of the community.

She worked for the advancement of libraries in the State, in the Southwest, and in the Nation. She was a part of all the important developments of libraries in Texas. She edited two volumes of the *Handbook of Texas Libraries,* (1908, 1935) which will remain as source books on the history of libraries. She served as president of the Texas

Library Asssociation and of the Southwestern Library Association, and as first vice-president of the American Library Association in 1932-33. She was in the overseas service of the American Library Association at Brest, France, in 1919.

Her literary background was rich and varied; her knowledge of books was comprehensive and her judgments liberal. Her love of Mexico and the Southwest and her wide study of this field is reflected in the Southwestern and Spanish-American collections of the Houston Public Library.

In her death the city of Houston has lost a stimulating force, a valued and courageous worker, a strong and sympathetic friend, and the Philosophical Society of Texas an honored member.

ROBERT ERNEST VINSON

1876 - 1945

The death of Dr. Vinson, in a Cleveland hospital, on September 2, 1945, brought to a close the career of one of the most colorful men in recent Texas history. An ordained Presbyterian minister, he served as president of the University of Texas for eight years during the exciting period of the Ferguson administration at home and of World War I abroad. He then served as president of Western Reserve University at Cleveland, Ohio, for a period of ten and one-half years, including the first four disastrous years of the great depression. Upon retiring from Western Reserve in December, 1933, he sought and found restoration of his shattered health in New Mexico. Thereafter he maintained himself by the labor of his own hands until stricken with a heart attack some two months before his death.

Robert Ernest Vinson, son of John and Mary Elizabeth (Brice) Vinson, was born in White Oaks, South Carolina, on November 4, 1876. Twenty years later, the family having removed to Texas, he was graduated from Austin College, at Sherman, with the Bachelor of Arts degree. In 1899, he received the degree of Bachelor of Divinity, from Union Theological Seminary, of Richmond, Virginia. In 1902 he studied in the University of Chicago. In later life, honorary degrees were conferred upon him by a number of colleges and universities.

After serving for three years (1899-1902) as pastor of the First Presbyterian Church at Charleston, West Virginia, he became first an instructor in, and, later, for eight years, president of, the Austin (Texas) Presbyterian Theological Seminary. In 1916, he became the fifth president of the University of Texas, and in 1923 he became president of Western Reserve University.

His administration as president of the University of Texas was distinguished by four events of large significance. The first was the successful defeat of the attempt of Governor Ferguson to introduce the spoils system into the educational institutions of the state. The second saw the University largely turned into an armed camp for training men for the armed forces of the State during the World War. The third was the acquisition of the Wrenn and the Garcia libraries, a step that went far toward making the University a place where graduate study could be successfully carried on. The fourth was the enlargement of the campus of the University by the purchase of 120 acres of land adjacent to it. This acquisition, which increased the size of the campus by three hundred per cent, came as a compromise between the members of the legislature favoring and those opposing the President's recommendation that the University be moved to the Breckenridge tract of 500 acres lying along the Colorado River west of the City of Austin. (Dr. Vinson's address before this Society in the Hall of State, in 1939, dealt with some of these matters. The address will be found in the *Proceedings* for that year.)

The press report announcing his death, summarized his administration at Western Reserve in the following brief paragraph:

> His regime at Western Reserve brought marked expansion in both physical properties and enrollment. Among other things, he founded the university's graduate school, now the second largest unit of the university.

On January 3, 1901, Dr. Vinson married Katherine Elizabeth Kerr, of Sherman, whose death occurred in 1940. They are survived by three daughters, Mary Elizabeth (Mrs. Alfred K. Kelley, of Cleveland, Ohio), Helen Rutherford (Mrs. H. O. Studley, of Cleveland Heights, Ohio) and Katherine Kerr (Mrs. Richard Kimball, of Niagara Falls, New York); and several grandchildren. —C. S. P.

HUGH HAMPTON YOUNG
1870-1945

As a urological surgeon, no man in this generation or the last was more pre-eminent than Hugh Hampton Young. Texas claimed him at his birth and he claimed Texas to the time of his death. He was born at San Antonio September 18, 1870, and died at Baltimore August 23, 1945.

His ancestry permeates deep in the history of Texas. His paternal grandfather crossed the Red River in 1840 and three years later he joined the Snively Expedition, enduring all the hardships and humiliations of that ambitious band. In this grandfather and in his father, both later to become Generals in the Confederate Army, there was a spirit of adventure and daring. These qualities Doctor Young was to inherit and these he was to utilize to the fullest in reaching surgical summits hitherto unknown.

In his autobiography, Doctor Young tells of his childhood days in San Antonio. As a child, the names of Ben Thompson and King Fisher were as vivid to him as those of Robert E. Lee and Jeb Stewart were to become in later years. He fished and hunted and swam, worked and played, just as any normal Texas boy of the 1880's would do. He attended the public schools and Seeley Academy, and here he showed no evidence of the greatness that was to come to him.

Further preparation at Aspinhill School and Staunton Academy, both in Virginia, brought him to the University of Virginia. Here he experienced an ever-expanding life. His work as a student was good but not outstanding—in his words he "just skimmed through" in some subjects—and yet he received the degrees of B.A., M.A., and M.D. in four years.

With his medical degree as a means of livelihood, he returned to San Antonio to practice his profession. Fortunately for the world of surgery, his stay was short. He admittedly knew next to nothing about surgery. He decided on more study and happily chose Johns Hopkins Hospital, then only five years old, as his place of study. Here at last the unusual man and the unusual institution came together. He saw the Johns Hopkins Medical School, under the guidance of Osler, Welch,

Halsted, and Kelly, develop from infancy to full maturity as a world-renowned center of medical teaching and research. In the field of urology, Doctor Young made contributions there which are comparable to those of these four famous physicians in their respective fields.

First as interne, then as assistant resident surgeon, and finally as head of the department of urological surgery, Doctor Young was to spend fifty years of teaching, scientific investigation, and medical authorship; through these he was to become the most renowned urological surgeon the world has ever known.

His surgical innovations are too numerous to mention. He is best known for his original operations for hypertrophy and cancer of the prostate gland, but he also devised many surgical procedures for ailments of the kidney, ureter, and bladder and for the correction of anatomical abnormalities. Speaking as a former student of Doctor Young, it can be stated that he brought to the operating table a rare combination of skill, knowledge, and foresight. He had the capacity to make difficult operations appear easy; in some instances other surgeons, using his methods, were unable to duplicate his results and as a consequence were inclined to be critical.

Much of Doctor Young's fame is due to his writings. He is the author of five books: *Hypertrophy and Cancer of the Prostate,* 1906; *Practice of Urology,* 1926; *Urological Roentgenology,* 1927; *Genital Abnormalities, Hermaphroditism and Related Adrenal Diseases,* 1937; *A Surgeon's Autobiography,* 1940. In addition, more than 300 of his articles were published in American and European medical journals.

Surgery was not the sole concern of Doctor Young. He was a man of varied talents and great versatility. Unbounded energy and contagious enthusiasm permeated his entire career. As a civic leader and patron of music, he became one of Baltimore's first citizens. As president of the Maryland Lunacy Commission, he exposed and helped to correct conditions existing in the state hospitals. He entertained strong political convictions and spoke earnestly and openly for his candidates.

Great and good surgeon that he was, Hugh Hampton Young was also a man of culture, a fine teller of tales, a welcome companion in any group. He was a noted teacher, eminent author, distinguished scientist. But most of all, he was a benefactor of mankind. —P. I. N.

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